

FOURTH DAY

(Friday, January 17, 1941)

The House met at 10:00 o'clock a. m., pursuant to adjournment, and was called to order by Speaker Leonard.

The roll of the House was called, and the following Members were present:

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| Mr. Speaker | Fuchs |
| Allen | Gandy |
| Allison | Garland |
| Avant | Gilmer |
| Bailey | Goodman |
| Baker | Halsey |
| Bean | Hanna |
| Bell | Hargis |
| Benton | Harris of Dallas |
| Blankenship | Harris of Hill |
| Boone | Hartzog |
| Brawner | Heflin |
| Bray | Helpinstill |
| Bridgers | Henderson |
| Brown | Hileman |
| Bruhl | Hobbs |
| Bullock | Howard |
| Bundy | Howington |
| Burkett | Hoyo |
| Burnaman | Huddleston |
| Carlton | Huffman |
| Carrington | Hughes |
| Cato | Humphrey |
| Celaya | Hutchinson |
| Chambers | Isaacks |
| Clark | Jones |
| Cleveland | Kelly |
| Coker | Kennedy |
| Colson, Mrs. | Kersey |
| Connelly | King |
| Craig | Klingeman |
| Crossley | Knight |
| Crosthwait | Lansberry |
| Daniel | Lehman |
| Davis | Leyendecker |
| Deen | Little |
| Dickson of Bexar | Lock |
| Dickson of Nolan | Love |
| Donald | Lowry |
| Dove | Lucas |
| Duckett | Lyle |
| Dwyer | McAlister |
| Ellis | McCann |
| Eubank | McDonald |
| Evans | McGlasson |
| Favors | McLellan |
| Ferguson | McNamara |
| Files | McMurry |
| Fitzgerald | Manford |

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|----------------|-------------------|
| Manning | Sallas |
| Markle | Senterfitt |
| Martin | Sharpe |
| Matthews | Shell |
| Mills | Simpson |
| Montgomery | Skiles |
| Moore | Smith of Bastrop |
| Morgan | Smith of Atascosa |
| Morris | Spacek |
| Morse | Spangler |
| Murray | Stanford |
| Nicholson | Stinson |
| Pace | Stubbs |
| Parker | Thornton |
| Pevehouse | Turner |
| Phillips | Vale |
| Price | Voigt |
| Rampy | Walters |
| Reed of Bowie | Wattner |
| Reed of Dallas | Weatherford |
| Ridgeway | White |
| Roark | Whitesides |
| Roberts | Winfree |
| Rhodes | |

Absent—Excused

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| Alsup | Kinard |
| Anderson | Taylor |
| Hardeman | |

A quorum was announced present.

Prayer was offered by Rev. George W. Coltrin, Chaplain.

LEAVES OF ABSENCE GRANTED

The following members were granted leaves of absence on account of important business:

Mr. Anderson for today on motion of Mr. Nicholson.

Mr. Hardeman for today on motion of Mr. Heflin.

Mr. Alsup for today on account of important State business on motion of Mr. Manning.

Mr. Taylor for today on account of Military Service on motion of Mr. McAlister.

The following members were granted leaves of absence on account of illness:

Mr. Kinard for today on motion of Mr. Lowry.

Mr. Donald for today on account of illness in his family on motion of Mr. McMurry.

TO COMMEMORATE THE BIRTH OF PRESIDENT ROOSEVELT

Mr. Carrington offered the following resolution:

H. S. R. No. 40, To Commemorate the Birth of President Roosevelt.

Whereas, On January 20th, 1941, the President of the United States, Franklin D. Roosevelt, will be inaugurated and inducted into office to serve a third term; and,

Whereas, Such date has been specified and designated by the Travis County Committee for the celebration of the President's birthday, such celebration extending over a period of ten days from the 20th of January, to and including the 30th of January; and,

Whereas, Such celebration is held annually for the benefit of those unfortunate children who have been afflicted with infantile paralysis and in many cases are unable to receive proper medical attention, and the funds realized from such infantile paralysis fund drive are used solely for research, equipment, and treatment of such dependent and crippled children; and,

Whereas, The Governor of the State of Texas, the Honorable W. Lee O'Daniel, has offered to open such campaign by making the first contribution, and the Mayor of the City of Austin, the Honorable Tom Miller, has offered to make the second contribution, and the Lieutenant-Governor of the State of Texas, the Honorable Coke Stevenson, has offered to make the third contribution; and, the Speaker of the House of Representatives, the Honorable Homer Leonard, has offered to make the fourth contribution, and,

Whereas, The Universal News Reel has seen fit to designate Austin as one of the places in which to take pictures of the opening of this campaign; and,

Whereas, The two local radio stations will carry the program and interview the people making contributions; and,

Whereas, An exceedingly large crowd is expected to be present for the opening of such campaign, and

Whereas, The Senate of the State of Texas has already adopted a similar resolution;

Now, Therefore, Be it Resolved by the House of Representatives of the

State of Texas, That we, in honor and observance of and in hearty accord with, such worthwhile program, do adjourn on the above date of January 20, 1941, at the hour of 11:50 a. m., so that we may proceed in a body to the stand erected to receive such contribution, the same being located on the corner of Seventh Street and Congress Avenue, in front of the Stephen F. Austin Hotel.

CARRINGTON,
STANFORD.

The resolution was read second time and was adopted.

NAMING HARRIETT LEE McLELLAN SWEETHEART OF THE HOUSE

Mr. Phillips offered the following resolution:

H. S. R. No. 41, Naming Miss Harriett Lee McLellan Sweetheart of the House.

Whereas, There is present at this Session of the Legislature a charming young lady from the City of Eagle Lake in the person of Miss Harriett Lee McLellan, daughter of our fellow Member C. S. McLellan and Mrs. McLellan; now, therefore, be it

Resolved, by the House of Representatives, That Harriett Lee McLellan be, and she is hereby, officially named Sweetheart of the Mascots of the House of Representatives of the Forty-seventh Legislature; and be it further

Resolved, That said Sweetheart of Mascots have her picture made and placed with the Members of the House in the official group when said group picture is provided for.

The resolution was read second time and was adopted.

NAMING WANDA JO LYLE MASCOT OF THE HOUSE

Mr. Nicholson offered the following resolution:

H. S. R. No. 42, Naming Wanda Jo Lyle Mascot of the House.

Whereas, We have with us now a proper person for office of Mascot of the House of Representatives of the Forty-seventh Legislature; now, therefore, be it

Resolved, That Wanda Jo Lyle, daughter of the Hon. John E. Lyle, be hereby officially named by this House as Mascot of the House of Representatives of the Forty-seventh Legislature of the State of Texas; and be it further

Resolved, That the said Mascot have her picture made and placed in the official group of this Body.

The resolution was read second time and was adopted.

NAMING MAGUS F. SMITH, III, MASCOT OF THE HOUSE

Mr. Avant offered the following resolution:

H. S. R. No. 43, Naming Magus F. Smith III Mascot of the House.

Whereas, We have with us now a proper person for office of Mascot of the House of Representatives of the Forty-seventh Legislature; now, therefore, be it

Resolved, That Magus F. Smith, III, son of the Hon. Magus F. Smith, be hereby officially named by this House as Mascot of the House of Representatives of the Forty-seventh Legislature of the State of Texas; and be it further

Resolved, That the said Mascot have his picture made and placed in the official group of this Body.

The resolution was read second time and was adopted.

NAMING JOHN CHARLES HOYO, JR., MASCOT OF THE HOUSE

Mr. Ridgeway offered the following resolution:

H. S. R. No. 44, Naming John Charles Hoyo, Jr., Mascot of the House.

Whereas, We have with us a proper person for office of Mascot of the House of Representatives of the Forty-seventh Legislature; now, therefore, be it

Resolved, That John Charles Hoyo, Jr., son of Hon. John C. Hoyo, Sr., of San Antonio, Texas, be hereby officially named by this House as Mascot of the House of Representatives of the Forty-seventh Legislature of the State of Texas; and be it further

Resolved, That the said Mascot have his picture made and placed in the official group of said Body.

The resolution was read second time and was adopted.

APPOINTMENT OF COMMITTEE TO ESCORT GOV. W. LEE O'DANIEL TO SPEAK- ER'S STAND

The Speaker announced the appointment of the following Committee to escort His Excellency, Governor W. Lee O'Daniel, to the Speaker's stand:

Messrs. Pace, King, McCann, Hargis and Crosthwait.

APPOINTMENT OF COMMITTEE IN PURSUANCE TO H. S. R. NO. 27

The Speaker announced the appointment of the following Committee in accordance with House Simple Resolution No. 27, Relative to Equipment in Hall of House:

Messrs. Skiles, Alsup, Bean, Wattner and Bullock.

(Mr. McMurry in the Chair.)

NAMING MASCOTS OF THE HOUSE

Mr. Walters offered the following resolution:

H. S. R. No. 45, Naming Janis Kersey and Clinton Kersey, Jr., Mascots of the House.

Whereas, We have with us now proper persons for offices of Sweetheart and of Mascot of the House of Representatives of the Forty-seventh Legislature; and

Whereas, These persons are Janis Kersey, four-year-old daughter, and Clinton Kersey, Jr., twenty-two-month-old son, of Clinton Kersey, Member of the Forty-seventh Legislature, of Wise County, Texas; therefore, be it

Resolved, That these persons be officially named as Sweetheart and as Mascot, respectively, of the House of Representatives of the Forty-seventh Legislature of the State of Texas; and be it further

Resolved, That the said Sweetheart and the said Mascot have their

pictures made and placed in the official group of this Body.

WALTERS,
McLELLAN,
FERGUSON.

The resolution was read second time and was adopted.

NAMING JOINT QUEENS OF MASCOTS OF THE HOUSE

Mr. Reed of Dallas offered the following resolution:

H. S. R. No. 46, Naming Misses Barbara Mae Leonard and Marcia Fae Leonard Joint Queens of Mascots of the House.

Whereas, Romance has ever been the vital spot of human affairs intimating alike the spirit of makers and servants of the law; and,

Whereas, Since Texas was in its infancy as a commonwealth, courtships have run their fevered course in the hallowed halls of the Legislature with the result that sturdy sons and daughters have been added to the ranks of native Texans; and,

Whereas, The romance that culminated in the wedding of the Speaker of this House of Representatives and his lovely wife during the 44th Legislature has been blessed by two daughters, fairer than the orange blossoms that perfume the winter air of their native heath, more radiant than the hibiscus and poinsettia that border the pathway of that charming section of Texas landscape, the Rio Grande Valley; and,

Whereas, It is fitting that these daughters of the Texas Legislature, Misses Barbara Mae Leonard, age two and one-half years, and Marcia Fae Leonard, age one and one-half years, should be vested with the regal status to which they were born;

Now, Therefore, Be it Resolved, That Misses Barbara Mae Leonard and Marcia Fae Leonard, daughters of the Honorable and Mrs. Homer L. Leonard, this day be officially designated as joint Queens of Mascots of the House of Representatives of the Forty-seventh Legislature; that their rule begin now and continue in perpetuity; and that portraits of these Queens be placed in the panel of the Representatives Portraits,

commemorating this session of the House of Representatives.

The resolution was read second time and was adopted.

NAMING JOHNNIE C. REED MASCOT OF THE HOUSE

Mr. McCann offered the following resolution:

H. S. R. No. 47, Naming Johnnie C. Reed Mascot of the House.

Whereas, We have with us a proper person for office of Mascot of the House of Representatives of the Forty-seventh Legislature; now, therefore, be it

Resolved, That Johnnie C. Reed, grandson of Honorable Jasper N. Reed, of Texarkana, Texas, be hereby officially named by this House as Mascot of the House of Representatives of the Forty-seventh Legislature of the State of Texas; and be it further

Resolved, That the said Mascot have his picture made and placed in the official group of said body.

McCANN,
HILEMAN.

The resolution was read second time and was adopted.

NAMING NOEL CARLTON BAKER, JR., MASCOT OF THE HOUSE

Mr. Matthews offered the following resolution:

H. S. R. No. 48, Naming Noel Carlton Baker, Jr. Mascot of the House.

Whereas, We have with us a proper person for office of Mascot of the House of Representatives of the Forty-seventh Legislature; now, therefore

Be it Resolved, That Noel Carlton Baker, Jr., eighteen months old son of Honorable Noel C. Baker of Gilmer, Texas, be hereby officially named by this House as Mascot of the House of Representatives of the Forty-seventh Legislature of the State of Texas; and

Be it Further Resolved, That the said Mascot have his picture made and placed in the official group of said body.

MATTHEWS,
CONNELLY.

The resolution was read second time and was adopted.

NAMING MASCOTS OF THE HOUSE

Mr. McGlasson offered the following resolution:

H. S. R. No. 49, Naming Billie Don Davis and Patsy Ruth Davis Mascots of the House.

Whereas, There are present at this session of the Forty-seventh Legislature two charming children of Mr. and Mrs. Gordon R. Davis of Waco; and

Whereas, Billie Don Davis is a fine young man of three years of age, and his sister is a most unusual and beautiful girl of one year of age, and they are proper children to be Mascots of the House of Representatives; now, therefore,

Be it resolved, That the House of Representatives declare Billie Don Davis and Patsy Ruth Davis to be Mascots of the House of Representatives of the Forty-seventh Legislature and that their picture be placed on the picture panel with the Members of this Session as Mascots of this Legislature; and

Be it further resolved, That this Legislature extend to them every best wish for their health and happiness.

McGLASSON,
McNAMARA.

The resolution was read second time and was adopted.

INVITING HON. T. V. SMITH TO ADDRESS THE LEGISLATURE

Mr. Carrington offered the following resolution:

H. C. R. No. 12, Inviting Hon. T. V. Smith to address the Legislature.

Whereas, The Honorable T. V. Smith, former Democratic Congressman-at-Large from the State of Illinois, will be in the City of Austin on Monday, Jan. 27, 1941; and

Whereas, The Honorable T. V. Smith is a distinguished former Texan and a graduate of The University of Texas and a brilliant speaker; and

Whereas, The Honorable T. V. Smith is a former member of the State Senate of Illinois, having served in that body with distinction; and

Whereas, The Honorable T. V. Smith is a nationally known authority in the fields of legislation, philosophy, and the democratic processes; and

Whereas, The Honorable T. V. Smith is to present at various points throughout the State under the auspices of the Hogg Foundation a series of lectures concerning the place of public education in a democracy; be it therefore

Resolved by the House of Representatives, the Senate concurring, That Mr. Smith be invited to address a Joint Session of the State Legislature on Monday, Jan. 27, at 11:00 o'clock a. m.

CARRINGTON,
FILES,
KELLY,
WHITESIDES,
STANFORD.

The resolution was read second time and was adopted.

(Speaker in the Chair.)

MESSAGE FROM THE SENATE

Austin, Texas, January 17, 1941.

Hon. Homer Leonard, Speaker of the House.

Sir: I am directed by the Senate to inform the House that the Senate has adopted

H. C. R. No. 7, Naming a Committee to Select a Poet Laureate of the State of Texas.

H. C. R. No. 8, Expressing Regret at the Passing of George Edward Robinson, Sr., and providing that copies of the resolution be sent to his family.

Respectfully,

BOB BARKER,
Secretary of the Senate.

ADDRESS BY HON. W. LEE
O'DANIEL, GOVERNOR

(In Joint Session.)

In accordance with the provisions of House Concurrent Resolution No. 2, Providing for Joint Session of the House and Senate at 10:30 o'clock a. m. today for the purpose of hearing the message of Hon. W. Lee O'Daniel, Governor, the Honorable Senators at 10:30 o'clock a. m., es-

corted by Hon. Bob Barker, Secretary of the Senate, were announced at the Bar of the House and, being duly admitted, occupied seats prepared for them along the aisle.

Lieutenant Governor Coke R. Stevenson was escorted to a seat on the Speaker's Stand.

Lieutenant Governor Coke R. Stevenson called the Senate to order, and stated that the two Houses were in Joint Session for the purpose of hearing an address by Hon. W. Lee O'Daniel, Governor.

Hon. Homer Leonard, Speaker, called the House of Representatives to order.

The Lieutenant Governor directed the Clerk to call the roll of the Senate.

The roll of the Senate was called and the following Senators were present:

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| Aikin | Mauritz |
| Brownlee | Metcalf |
| Chadick | Moffett |
| Cotten | Moore |
| Fain | Kamsey |
| Formby | Shivers |
| Graves | Smith |
| Hazlewood | Stone |
| Hill | Sulak |
| Isbell | Van Zandt |
| Kelley | Vick |
| Lanning | Weinert |
| Lemens | Winfield |
| Lovelady | York |
| Martin | |

Absent—Excused

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| Beck | Spears |
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A quorum of the Senate was announced present.

Speaker Leonard directed the Clerk to call the roll of the House.

The roll of the House was called and the following Members were present:

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|-------------|-------------|
| Mr. Speaker | Benton |
| Allen | Blankenship |
| Allison | Boone |
| Avant | Brawner |
| Bailey | Bray |
| Baker | Bridgers |
| Bean | Brown |
| Bell | Bruhl |

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|------------------|-------------------|
| Bullock | Klingeman |
| Bundy | Knight |
| Burkett | Lansberry |
| Burnaman | Lehman |
| Carlton | Leyendecker |
| Carrington | Little |
| Cato | Lock |
| Celaya | Love |
| Chambers | Lowry |
| Clark | Lucas |
| Cleveland | Lyle |
| Coker | McAlister |
| Colson, Mrs. | McCann |
| Connelly | McDonald |
| Craig | McGlasson |
| Crossley | McLellan |
| Crosthwait | McNamara |
| Daniel | McMurry |
| Davis | Manford |
| Deen | Manning |
| Dickson of Bexar | Markle |
| Dickson of Nolan | Martin |
| Dove | Matthews |
| Duckett | Mills |
| Dwyer | Montgomery |
| Ellis | Moore |
| Eubank | Morgan |
| Evans | Morris |
| Favors | Morse |
| Ferguson | Murray |
| Files | Nicholson |
| Fitzgerald | Pace |
| Fuchs | Parker |
| Gandy | Pevehouse |
| Garland | Phillips |
| Gilmer | Price |
| Goodman | Rampy |
| Halsey | Reed of Bowie |
| Hanna | Reed of Dallas |
| Hargis | Ridgeway |
| Harris of Dallas | Roark |
| Harris of Hill | Roberts |
| Hartzog | Rhodes |
| Heflin | Sallas |
| Helpinstill | Senterfitt |
| Henderson | Sharpe |
| Hileman | Shell |
| Hobbs | Simpson |
| Howard | Skiles |
| Howington | Smith of Bastrop |
| Hoyo | Smith of Atascosa |
| Huddleston | Spacek |
| Huffman | Spangler |
| Hughes | Stanford |
| Humphrey | Stinson |
| Hutchinson | Stubbs |
| Isaacks | Thornton |
| Jones | Turner |
| Kelly | Vale |
| Kennedy | Voigt |
| Kersey | Walters |
| King | Wattner |

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| Weatherford | Whitesides |
| White | Winfree |

Absent—Excused

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| Alsup | Hardeman |
| Anderson | Kinard |
| Donald | Taylor |

A quorum of the House was announced present.

At 10:40 o'clock a. m., Hon. W. Lee O'Daniel, and party escorted by Senators: Chadick, Mauritz, Smith, Aikin and Lovelady, Committee on the part of the Senate, and Messrs. Pace, King, McCann, Hargis and Crosthwait, Committee on the part of the House, was announced at the Bar of the House, and being admitted, was escorted to a seat on the Speaker's Stand.

Speaker Leonard then presented Governor W. Lee O'Daniel to the Joint Session.

Governor O'Daniel addressed the Joint Session as follows:

January 17th, 1941.

To the Members of the Forty-seventh Legislature:

Yesterday, I discussed with you some of the fundamental defects in our State Government, and recommended that you give consideration to correcting these defects.

Today, I shall discuss the Number One Problem of this State, which is the Social Security obligations, and other obligations of this State, together with a plan for raising the revenue with which to discharge these obligations. I shall divide this discussion into two separate sections. The first section will deal with debts already incurred by the State, and other obligations of the State, which will require about Twenty Million Dollars (\$20,000,000) annually to discharge. The second section of this discussion will deal with the four divisions of our Social Security Services, old-age pensions, care for dependent children, care of indigent blind, and teacher retirement, all of which will require between \$35,000,000 and \$40,000,000 annually.

(I) We have in jails all over this State people who are insane and we cannot care for them for the simple

reason that we do not have the buildings and necessary facilities.

Furthermore, we have eleemosynary institutions in this State that are in a very bad state of repair, some of them nothing more than fire-traps. I think it is imperative that this Legislature make available money for the purpose of providing additional buildings and equipment, and for fire-proofing and repairing buildings that are in a hazardous condition.

It will require around Five Million Dollars (\$5,000,000) per year to do this job. I believe the people want this done and I hope this Legislature will make provision for doing it.

(II) The Institutions of higher learning in this State are today operating on appropriations which are approximately the same as they were ten years ago, while, on the other hand, they are caring for a tremendously increased student body. It seems to me that it is inevitable that we must provide more money for the operation of our Institutions of higher learning, otherwise the character of instruction in these institutions will fall to a low level, and the youth of our State will not receive the type of instruction which they are entitled to have. I do not believe there is any economy in operating these institutions of higher learning for less money than is required to enable them to render first class work. I am convinced that the welfare of the youth of our State and the interest of the State at large will be conserved by making more money available for these institutions. It will take approximately Two Million, Five Hundred Thousand Dollars (\$2,500,000) per year to do the job. I trust this Legislature will provide this money.

(III) If there is one subject which is close to the hearts of all of us, it is that of our public schools, because in these institutions the youth of this State who are to be the future citizens of this State must be trained. We do not want any money wasted by our public schools, nor do we want our public schools hampered in providing an adequate system of education on account of lack of necessary funds. I, for one, believe that it is possible for us to

bring the public schools of Texas up to the average in the United States. I do not believe we can do this all in one year, but I do think we can and should accomplish it within the next eight or ten years, and I think we should make a beginning toward doing it now.

The State Board of Education made a survey of the public schools of Texas and they issued an 1800-page report. I appointed a commission to study this report and to submit recommendations to me as to how they believed the public schools of Texas might be reorganized and improved, to the end that the taxpayer would get more value for every dollar spent. This study has been made and at a later date, in a special message, I shall submit to the Legislature the report of this commission for your consideration. Personally, I think it is imperative that we reorganize the public school system of this State to eliminate all waste. But even when this has been done, it is still going to be necessary to provide more money for the public schools because the expenditure for public schools in Texas today is Eighteen Dollars and Seventy-four Cents (\$18.74) per capita less than the national average. I think this Legislature should deal first with the problem of an effective reorganization of our public schools and should at the same time make a start toward providing more adequate finance. I believe that the Legislature should give much thought and attention to this general problem.

I am impressed with the fact that under the present system of organization and operation there is a substantial amount of waste of public money, but, on the other hand, when I consider the fact that, in round figures, we are spending in Texas today approximately Twenty Million Dollars (\$20,000,000) annually less for the maintenance of public education than we would spend if we were supporting these schools on the basis of the national average, common sense tells me that this tremendous deficiency of funds cannot be overcome by any system of reorganization. It is obvious to me that regardless of how efficiently we may operate public

schools in this State, we must make available to these schools more money if we are to bring the public schools of Texas up to the standard which the boys and girls of this State are entitled to have.

I have read many statements designed to prove that we cannot afford in Texas a high standard of public education because of the fact that we do not have a high standard of individual income. It is true that the cash income in Texas is not up to the national average, but it is also true that Texas is to a large extent an agricultural State and much of the income of Texas is not reflected in cash. I think I am reasonably familiar with business conditions and with living conditions of the people throughout the United States and we may not be able to support public schools in Texas on a basis of One Hundred Fifty-nine Dollars (\$159) per student as is provided in New York; or One Hundred Forty Dollars (\$140) per student as is provided in California; or One Hundred Thirty-eight Dollars (\$138) per student as provided in New Jersey; but I do believe that we should set up as our standard, at least reaching within the next ten years, the national average of Eighty-eight Dollars (\$88) per student. I believe that this session of the Texas Legislature should make its contribution toward the solution of this problem; first, by effecting a businesslike reorganization of the public schools; and, second, by providing at least Five Million Dollars (\$5,000,000) annually additional support for the public schools.

(IV) When this biennium ends, the deficit in the General Fund will be, in my judgment, approximately Thirty Million Dollars (\$30,000,000). Any one who reads the Constitution of Texas will agree, I think, that it was the intention of those who framed that document to prevent the State going into debt without the matter being submitted to a vote of the people. I submit to you as an established fact that if the Legislature has the right, by making appropriations in excess of revenue, to establish a debt of Thirty Million Dollars (\$30,000,000) they have a right under the Constitution by the same

process to establish a debt of One Hundred Million Dollars (\$100,000,000) or Five Hundred Million Dollars (\$500,000,000).

I think such a policy is extremely dangerous; I think it is dangerous for several reasons. I am a firm believer in meeting the obligations of the State Government in all of its various fields, but I believe the taxes should be levied to pay these obligations when they are incurred. If the people pay for government as they get it, it will serve as a restraining influence to keep them from demanding more government than they are able to pay for. I am opposed to the idea of going into debt for ordinary operating expenses. It is a bad policy for private business and it is bad policy for the State Government. I think this Legislature should make provision to retire at least one-fourth of the State deficit during each year of the coming biennium. If this be done and if the succeeding Legislature will follow the same course, then the entire State deficit will be wiped out by 1945. I, therefore, recommend that revenue be raised to pay one-half of the State deficit during the coming biennium.

If we are to provide an additional Five Million Dollars (\$5,000,000) annually for our eleemosynary institutions, Two Million Five Hundred Thousand Dollars (\$2,500,000) for our institutions of higher learning; Five Million Dollars (\$5,000,000) for our Public Schools; and Seven Million Five Hundred Thousand Dollars (\$7,500,000) to retire the General Fund deficit, it will require a total of Twenty Million Dollars (\$20,000,000) annually. In my opening address when I announced for re-election, I enumerated these four items and suggested that this money be raised by increased production taxes on natural resources and by increasing taxes on public utilities, and by diverting to the General Fund the taxes on liquor, wine and beer. I advocated this same thing all through my campaign, and I am now submitting it in the form of a recommendation for the consideration of this Legislature.

I also attach hereto a proposed bill which will raise about Eleven Million Dollars (\$11,000,000) on oil, gas, sulphur and public utilities,

which together with Nine Million Dollars (\$9,000,000) diverted liquor, wine and beer taxes, will make up the Twenty Million Dollars (\$20,000,000). This recommendation is exactly the same as I advocated throughout my campaign for re-election. I consider that it has been approved by a majority of the voters of the State. I now leave it with you for your consideration. In recommending this bill I want to make the further suggestion that if this Legislature selects and approves some better plan of raising this amount of money I shall gladly cooperate with you in putting your plan into effect.

We now come to a discussion of our Number One Problem in Texas—the Social Security Problem.

I do not feel that it is necessary in this message to debate the question of whether or not the State should provide the necessary funds to aid dependent children, care for the blind, met the State's obligation to teacher retirement, and pay old age pensions, because all of these things were submitted to the sovereign voters of this State and the demand is written into the Constitution of this State that all of these obligations be met. So the question before the Legislature today is not "Shall these obligations be met?"—The question is: "How shall they be met?"

I think there is general agreement among the people that it will require One Million Five Hundred Thousand Dollars (\$1,500,000) annually to meet the State's obligation to aid dependent children; that it will require Five Hundred Thousand Dollars (\$500,000) annually to meet the State's obligation to care for the indigent blind; and that it will require Two Million Five Hundred Thousand Dollars (\$2,500,000) annually to meet the current obligation for teacher retirement.

Now let me discuss the other phase of our Social Security program, that of paying old age pensions, or if you prefer the language of the Social Security Act, of providing old-age assistance. You hear many opinions expressed about what the State Constitution provides. I think the best way to answer that question is to quote the provision of the Constitution of Texas which authorizes old-age pensions. Section

51-b of Article III of the Constitution of Texas, reads as follows:

(QUOTE.)

"Sec. 51-b. Old Age Assistance.—The Legislature shall have the power by general laws to provide, under such limitations and restrictions and regulations as may be deemed by the Legislature expedient, for old-age assistance and for the payment of same not to exceed Fifteen Dollars (\$15) per month each to actual bona fide citizens of Texas who are over the age of sixty-five (65) years, provided that no habitual criminal, and no habitual drunkard while such habitual drunkard, and no inmate of any State supported institution, while such inmate, shall be eligible for such old-age assistance, provided further that the requirements for length of time of actual residence in Texas shall never be less than five (5) years during the nine (9) years immediately preceding the application for old-age assistance and continuously for one (1) year immediately preceding such application. . . . The Legislature shall have the authority to accept from the Government of the United States such financial aid for old-age assistance as that Government may offer not inconsistent with restrictions hereinbefore provided."

(UNQUOTE.)

Now the question is: Under this provision of the Constitution, just how much latitude does the Legislature have in dealing with the problem of old-age pensions? As to amount, they can pay any amount not to exceed Fifteen Dollars (\$15) per month. They can require children to contribute to the support of their parents or they may refuse to require children to contribute to the support of their parents. It is a matter left entirely to the Legislature to determine. The National Social Security Act provides that old-age pensions shall be based on need, but the National Social Security Act does not define "need," it leaves that to the State to do.

The National Social Security Act does not say that children shall be required or shall not be required to contribute to the support of their parents. If they do contribute, however, the amount of that contribution will be taken into consideration

in determining need. My personal judgment is that where children are able to contribute to the support of their parents, they should do so, and it is my opinion that they will do so. But I do not think the law should require them to make the contribution, because if you attempt to require it by law, the result will be that there will be many cases where young people who are rearing families, will be called upon to take the money away from their own children in order that they may contribute toward the support of their parents. I do not believe this is right and I do not believe that it is desirable.

Under the Social Security Act and under the Texas Constitution as they now stand, I believe it is fair to say that the responsibility lies upon the Legislature of Texas to provide a sufficient amount of money for the old people so that they can live decently. I do not believe the State has met its obligation to these old people until it does this. So far as I am concerned, it is my very definite opinion that if an old person has no income, Thirty Dollars (\$30) a month out of State and Federal funds, which is only One Dollar per day, is not an excessive amount. Certainly no person could live extravagantly on Thirty Dollars (\$30) per month, because it is a well-known fact that when a person passes the age of sixty-five, the need for drugs and often the need for special care constitutes a substantial item.

So, I would say that from my viewpoint, where a person has no income, he should receive at least Thirty Dollars (\$30) per month from State and Federal funds, because I think that amount in such a case can be definitely justified, to enable the old person to live in decency and comfort. Inasmuch as Federal regulations make it imperative that income be taken into consideration, such income should be supplemented sufficiently to bring their normal income up to Thirty Dollars (\$30) per month.

We have in Texas about Two Hundred and Ninety Thousand (290,000) persons sixty-five years of age and over. Somewhere between sixty and seventy per cent of these people have no income from any source except as it comes to them from relatives or from public charity.

Fifteen per cent or twenty per cent have some income, but do not have a sufficient amount to enable them to meet their necessary expenses. And, of course, there are probably fifteen or twenty per cent who are self-supporting and will not apply for assistance. Sixty per cent of 290,000 is 174,000 who are wholly dependent on others. 174,000 old folks at Thirty Dollars (\$30) per month amounts to Sixty-two Million, Six Hundred and Forty Thousand Dollars (\$62,640,000) per year. One-half of this amount to be paid by the State, equals Thirty-one Million, Three Hundred Twenty Thousand Dollars (\$31,320,000). This leaves forty per cent of the two hundred ninety thousand (290,000) old folks to be considered. Probably twenty per cent (20%) own sufficient property, or are earning an adequate income and would never apply for assistance. The other twenty per cent (20%) or fifty-eight thousand (58,000) old folks will require assistance of an amount difficult to estimate.

My personal opinion is that when you take all of these factors into consideration, you are forced to the conclusion that the Social Security bill in Texas, including aid for dependent children, aid for the indigent blind, teacher retirement and old-age pensions, cannot be met without an expenditure of at least Thirty-five or Forty Million Dollars State money annually, and such an expenditure will not care for any of these services on an extravagant basis. It will provide simply a decent living for the old people and a reasonable amount of money for the dependent children, and indigent blind, and sufficient funds to match the contributions for teacher retirement. I think this Legislature should make available this amount of money to meet these obligations.

We now come to the question of how shall we raise the taxes to meet all of these Social Security obligations of the State.

When I announced as a candidate for re-election to the office of Governor of this State, I enumerated in my opening speech all of these obligations of the State which I believed should be met, just as I have enumerated them to you in this

message today, and I stated then that I believed the revenue to meet the cost of the Social Security bill in Texas should be raised from a transaction tax levied on established lines of business. That was my opinion then, and it is my opinion now as to the best method of raising the revenue to meet these obligations.

I stated many times during my campaign for re-election to the office of Governor, and I repeat now, that I believe the Social Security bill in Texas, including aid for dependent children, aid for the blind, teacher retirement, and old-age pensions, should be paid and should be paid in full; and I stated further that it should be paid from either a transaction tax levied on established lines of business or from some other broad based tax. If the Legislature will do this, then you will, in my judgment, have approached the problem of meeting the State's Social Security obligations in a manner that will succeed and also in a manner that will not hurt any line of business within this State.

I am pleased to attach hereto a proposed transaction tax bill which will raise Fifty Million Dollars (\$50,000,000) annually, based on a rate of 1.6%. This is the same rate I recommended to the 46th Legislature at the time I also recommended abolishing the State ad valorem tax as General Fund revenue. I still recommend abolishing the State ad valorem tax that goes to the General Fund, but if the Legislature does not abolish it, you can reduce the rate of 1.6% to whatever rate it takes to raise the amount of revenue you decide to raise.

In my message two years ago, I suggested various other forms of taxation which you might want to consider,—namely, a tax of eight cents per barrel on oil, supplemented by similar increases in the taxes on sulphur and other natural resources; also, a flat gross receipts tax on oil, sulphur, insurance companies, public utilities and other major lines of business; also, a net income tax at approximately double the Federal rate; also, a low rate gross income tax. To conserve time I shall not discuss these various forms of taxation again at this

time, but refer those of you who are interested in the matter to my address of January 18th, 1939, as printed in the House Journal. It is my deliberate judgment, however, that the transaction tax is the best means of raising the money. But I have no desire to even attempt to dictate to the Legislature how this task shall be accomplished. That is a matter for the Members to decide.

It is the responsibility of the Governor of this State to recommend legislation, but it is not his responsibility to pass legislation. That responsibility rests upon the Legislature and upon no one else. I have given you my opinion about these matters and I am ready to cooperate with you in every way in effecting a solution of these problems. If you do not approve of the methods which I have recommended to raise the revenue to meet the obligations of the State Government, and, if you have a better plan, I am ready to accept the better plan and I shall approve any reasonable and honest tax bill which this Legislature passes and places on my desk which will raise a sufficient amount of money to meet in a reasonable way the obligations which the State must meet. Therefore, I urge all members of the Legislature to approach this problem with an open mind and that you seek in a cooperative spirit to reach an agreement on legislation which will solve these pressing problems.

In approaching the problem of taxation, both you and I might as well realize that public spending is generally popular and that the levying of taxes to pay public expenditures is usually unpopular. It is popular to recommend and to vote for liberal pensions, liberal appropriations for education and for other purposes, but it is not popular to recommend or to vote for taxes to meet these obligations. As public servants, we may expect from the tax-dodging lobbyists and their clique a most violent opposition to all legislation designed to raise the necessary money to meet the honest obligations of the State. All plausible arguments against the levying of taxes will be offered and some arguments will be offered which on the face, may look plausible, but which, in fact, will not be. It is al-

ready being urged by some people that this session of the Legislature should refuse to levy the necessary taxes to meet the State's obligations because of the fact that the national government is now engaged in a vast expenditure of public moneys to make effective a program of national defense.

I am for the program of national defense, and I believe it is the obligation of the State to do all that it can to promote national defense, but in this connection I should like to examine carefully this argument which is being advanced against the levying of necessary taxes to meet State obligations. Would you say that a program of national defense would be promoted by the failure of the State to provide the necessary amount of money to care for the old age pension problem?

Two years ago Members of the 46th Legislature were told by the tax-dodgers' lobbyists that taxes should not be raised to pay pensions because grown children should support their parents. Since then those grown sons have shouldered their rifles and marched away to train for defending their country and these tax-dodgers' property. Do they now propose to let the aged fathers and mothers of those patriotic sons suffer for the need of food, clothing and medical care while their sons are away, by arguing that pensions should not now be paid because of our national defense program? Would you say that the program of national defense would be promoted by the refusal of the State to care for dependent children? Many of these children will be dependent wholly because their daddies are in the front lines to defend our country and the assets of these tax-dodgers.

Do you think you would promote national defense by refusing to care for the indigent blind of the State, or by leaving the insane of the State in the jails or in fire-traps? Do you believe you would promote national defense by refusing to give to the public schools of this State an adequate amount of money to enable them to train properly the youth of the land? Would national defense be promoted by refusal to give to our institutions of higher learning

the necessary additional funds which they must have to meet the increased obligations which have been placed upon them? Do you believe you would promote national defense by allowing an unconstitutional and unauthorized deficit of Thirty Million Dollars (\$30,000,000) to stand on the books of the State and to increase each year?

My answer to all of these questions is an emphatic no. These same tax-dodgers' lobbyists who fought increased taxes last year with unsound argument and propaganda, are this year using different forms of unsound argument and propaganda to fight it. With their tongues they argue that the national defense program is costing the taxpayers so much money that no taxes should be raised for social security purposes, while with both hands they are raking in huge profits because of the national defense program.

I believe we will do our part in national defense better by putting our own house in order. I do not believe that our expenditures for any of these purposes should be excessive. I do not believe the expenditures for any of these purposes should be wasteful, but I do believe that all of these matters which I have mentioned, are fundamental responsibilities of the State government and whatever amount of money is necessary to meet them should be raised by taxation and it should be raised now.

As an argument against the levying of any additional taxes in Texas, we hear many people making reference to the tremendous tax load which the citizens of Texas are being forced to carry at this time. I am perfectly willing to grant that all lines of business in Texas, as well as in other states, are carrying a heavy load of taxes, but the fact of the business is that the sum total of taxes collected by State and local government in Texas is far below that collected by the average State in the American Union. The truth is, if the Legislature provides for every recommendation I have made and levies the taxes to make available the revenue to meet all of these obligations, the average per capita tax bill in Texas will still be far below the average of other States in the United States. So there is no

sound reason why the taxes necessary to meet the honest obligations of this State should not be levied at this time.

Furthermore, the argument that we should defer levying taxes to meet these obligations and continue the process of enlarging the State debt to be paid at some later date, is absolutely unsound for another reason. It is a well-known fact that due to the tremendous expenditures of the Federal government there will be during the next few years a very substantial increase in all lines of business and now while business is being stimulated by these vast public expenditures, is the very time when we should levy the taxes to meet these pressing obligations of the State and to pay our debts. It is far better to do it now than to wait until the time when there is a very positive recession in business and then find ourselves with a large list of accumulated unpaid obligations.

Of one thing I, as Governor, am certain, and I think, as Members of the Legislature, you will find it to be true, that if you listen to the advice of the selfish interests of this State, if you listen to the advice of those taxpayers who always have and always will oppose every tax measure which seeks in any way to increase their taxes, then you will not be able to raise the revenue which we must have to meet these honest obligations of the State. You might as well know before you begin the consideration of tax legislation that every manner of excuse will be offered as a reason why now is not the time to raise revenue to meet these obligations of the State.

You will be told that we must wait until the national defense program is out of the way; you will be told that taxes in Texas are higher than they are anywhere else in the world; you will be told that if you levy the taxes to meet these honest obligations of the State, it will bring disaster to the taxpayers; but I say to you that such is not the case. The best interests of Texas will be served if we meet these obligations, and if we meet them now. During the next few years when all lines of business will be tremendously increased on account of the national defense program, is the time to get this State

on a cash basis. Why wait until this period has passed and we are in the midst of a depression, which most likely will come when we have completed the present program of national defense. We know that when this emergency has been met, there will be a period when the men employed in this work must be absorbed by other lines of business or become idle, and a general depression is always inevitable during such periods. To defer meeting these obligations now during the period when business will be good and profits will be more than normally high, is absolutely unsound business policy.

If you, as members of the Legislature, will listen to this false argument for postponement at this time, you may be certain of one thing; that just as soon as the national defense program has been accomplished, you will be told that taxes cannot be levied then because we will be in a period of depression. In other words, we have in this State some well organized taxpayer groups who are opposed to all taxes now; they will be opposed to all taxes at the next session of the Legislature and at every succeeding session of the Legislature. If you ever raise revenue to meet these obligations of the State, you will have to raise it in the face of this opposition.

You will hear much about saving money by reorganizing the State Government. Now I am definitely committed to the necessity and the desirability of effecting as much reorganization in the State Government as it is possible to effect and have so recommended to you, but it is absolutely foolish to talk about saving enough money through the process of reorganizing the State Government to meet the State's obligations. The total appropriation for salaries for all of the departments of the State Government, including all salaries of the administrative and executive boards and all of the various commissions, amounts to, in round figures, Nine Million Five Hundred Thousand Dollars (\$9,500,000) each year. Out of this total paid for salaries, in round figures, only Four Million Dollars (\$4,000,000) comes from taxes levied, the remainder is paid from fees.

Assuming that out of that portion of salaries paid by taxes, we could by reorganization of the State Government save twenty-five per cent (25%) of it, the total saving which would be reflected in tax revenue would be only One Million Dollars (\$1,000,000). So it is unreasonable to talk about meeting the obligations of the State through any process of cutting the operating expenses of departments of the State Government, and in making this statement, I do not mean to minimize the necessity for such governmental reorganization and economy because it is imperative, but it is foolish to claim for a reorganization plan things which we know it is impossible to achieve.

You will be told that if the delinquent ad valorem taxes due the State could be collected, this would solve all of the State's fiscal problems. Well, now, the facts are that according to the report of the State Auditor, the total delinquent ad valorem taxes due the State at the end of the last fiscal year were in round figures, Twenty-one Million (\$21,000,000).

There always has been and perhaps always will be quite a large amount of delinquent taxes due the State. Each year collection of delinquent taxes has been made and the money collected is part of the regular receipts of the State. No doubt much of this Twenty-one Million Dollar (\$21,000,000) taxes now delinquent will be collected eventually, but not all at one time. Our delinquent tax account will possibly always remain this high or get higher. This does not mean that delinquent taxes are not being collected. It means that while delinquent taxes are collected from some people each year, other people will get behind in their payments. It is a continuing process, with different delinquent taxpayers making up the list from year to year. The record discloses that the State is making constant improvement in the collection of ad valorem taxes. On June 30, 1931, 22.7% was delinquent; 1932, 23.9%; 1933, 29.2%; 1934, 20.4%; 1935, 18.7%; 1936, 15.9%; 1937, 12.72%; 1938, 11.48%, and 1939 only 10.61%. This shows the percentage of delinquencies dropping

from a high of 29.2% in 1933 to an all-time low of only 10.61% in 1939.

It is idealistic dreaming to hope for the millennium when there will be no delinquent taxes due the State. Where these delinquent taxes have accrued against real property which is worth as much as the taxes due, there is little for the State to lose. If they are assessed against personal property, there may be some loss.

I think collection of delinquent taxes is important, and those responsible for their collection should use energetically every means at their command to collect same promptly, but certainly it cannot be relied upon as a means of meeting the present fiscal problems of the State.

Throughout my campaign for Governor and on many other occasions, I stated that I believed any attempt to array class against class was unsound public policy, that we needed big business in this State and we needed little business in this State, and that all taxing policies adopted by the State should be fair and equitable to all lines of business, and this is still my opinion.

I believe the State honestly wants us to meet all of these obligations and to meet them now. Previous Legislatures have failed to measure up to their responsibilities in this matter. They have sidestepped the issues by appropriating and appropriating and appropriating money out of the deficit and failing to have the fortitude to pass tax bills to raise enough money to keep up with their appropriations until now our State is in a critical financial condition. The people of Texas are sick and tired of these unbusiness-like tactics and they want this condition corrected. They have written their requests into the Constitution in plain English and have gone to the polls and elected you members of the Legislature to carry out their mandate by raising these taxes and letting them contribute the tax money so this State can pay its debts. The amounts needed as mentioned in this message are the exact amounts I mentioned in my opening announcement, and the type of tax measures recommended here are the same as I suggested then and all during my campaign, and surely the great rank

and file of our Texas voters approved by their votes, both the amounts of money necessary to be raised and the methods of raising it. Under these conditions, why should you hesitate to act accordingly and immediately? But, I also want to repeat and emphasize that if the Legislature has better tax plans for raising the necessary money to take care of all of our State obligations, I am perfectly willing to accept your better plans and to cooperate with you in putting into effect any sincere and honest tax bill that will raise enough money to meet all of the State's obligations.

Two years ago I urged that the tax measure to pay Social Security be written into the Constitution, but also stated then that I would gladly accept a statutory tax bill if the Legislature preferred a statutory tax bill. The matter has now been delayed so long that we have no time to waste in trying to write the tax into the Constitution at this time, I therefore urge you to pass these tax bills by statutory enactment now, and after this has been accomplished I should then like to see the Legislature give deliberate consideration to some plan of writing into the Constitution of this State the necessary taxes to meet all of these Social Security obligations in the years to come. But the first thing to do now is to get the money to pay these necessary obligations of the State.

During the two years I have served as Governor of this State, I have looked over the journals of past sessions of the Texas Legislature for many years back and it seems that generally tax bills have not been passed until the very last days of the session. Now let me warn the Legislature before you start upon the task of passing a tax bill, that you may expect every device possible to be used to delay consideration of pending tax measures. No one wants tax legislation to be rushed through without due consideration, but it is one thing to take the necessary time to really consider a tax measure, and an entirely different thing to adopt every known device to prevent the consideration of tax legislation until the very closing hours of the session and then hastily jam a tax measure through the Legislature at a time when the individual members

do not have time or opportunity to give it the consideration which it merits.

I, therefore, urge that the Legislature begin immediately the consideration of revenue raising measures. Certainly there is no reason why this Legislature should not during the first thirty or forty days of the session pass tax bills to finance these necessary services of the State government, and in order to expedite such consideration, I hereby submit to the Legislature as emergency legislation the following:

(a) The subject of raising necessary revenue to finance Social Security, including old-age pensions, aid for dependent children, aid for the blind, and teacher retirement;

(b) Raising revenue to meet the other necessary obligations of the State.

I most cordially invite the cooperation of the Members of the Forty-seventh Legislature in dealing with these important problems, promptly.

GOVERNOR W. LEE O'DANIEL.

TEXT OF BILL SUBMITTED BY GOVERNOR

Following is the text of the bills as submitted by the Governor in the above message:

H. B. No. —

A BILL

To Be Entitled

An Act to amend the subject matter embraced in Section 2 of Chapter 162, Acts of the Forty-third Legislature, Regular Session, as amended by Section 1, Chapter 12, Acts of the first called session of the Forty-third Legislature, as amended by H. B. No. 8, Chapter 495, Article 4, Section 4, Acts of the third called session of the Forty-fourth Legislature; Section 40A of Article 7047, Revised Civil Statutes, 1925, as amended by Acts of the Forty-second Legislature, 1931, Regular Session, page 355, Chapter 212, Section 1, as amended by H. B. No. 8, Chapter 495, Article 4, Section 6, Acts of the third called session of the Forty-fourth Legislature; Article 7060, Revised Civil Statutes of 1925, as amended by Chapter 34, Acts of the fifth called session of the

Forty-first Legislature, as amended by Article 4, Section 3, Chapter 495, Acts of the third called session of the Forty-fourth Legislature, Article 7070, Revised Civil Statutes of Texas, 1925, as amended by Acts of the third called session of the Forty-fourth Legislature, 1936, Article 4, Section 1, H. B. No. 8; providing for the levying of certain taxes and their allocation and defining certain terms, and providing for the effective date of the Act and for the repeal of all laws and parts of laws in conflict herewith; and declaring an emergency.

Be It Enacted by the Legislature of the State of Texas:

Article I

Section 1. That Section 2 of Chapter 162, Acts of the Forty-third Legislature, Regular Session, as amended by Section 1, Chapter 12, Acts of the First Called Session of the Forty-third Legislature, as amended by House Bill No. 8, Chapter 495, Article IV, Section 4, Acts of the Third Called Session of the Forty-fourth Legislature, shall be amended so as to hereafter read as follows:

"Section 2. (1) There is hereby levied an occupation tax on oil produced within this State of three and three-quarters cents ($3\frac{3}{4}$ c) per barrel of forty-two (42) standard gallons. Said tax shall be computed upon the total barrels of oil produced or salvaged from the earth or waters of this State without any deductions, and shall be based upon tank tables showing one hundred per cent (100%) of production and exact measurements of contents. Provided, however, that the occupation tax herein levied on oil shall be three and three-quarters per cent ($3\frac{3}{4}$ %) of the market value of said oil whenever the market value thereof is in excess of One Dollar (\$1) per barrel of forty-two (42) standard gallons. The market value of oil, as that term is used herein, shall be the actual market value thereof, plus any bonus or premiums, or other things of value paid therefor or which such oil will reasonably bring, if produced in accordance with the laws, rules and regulations of the State of Texas.

"(2) The tax hereby levied shall

be a liability of the producer of oil and it shall be the duty of such producer to keep accurate records of all oil produced, making monthly reports under oath as hereinafter provided.

"(3) The purchaser of oil shall pay the tax on all oil purchased and deduct tax so paid from payment due producer or other interest holder, making such payments so deducted to the Comptroller of Public Accounts by legal tender or cashier's check payable to the State Treasurer. Provided, that if oil produced is not sold during the month in which produced, then said producer shall pay the tax at the same rate and in the manner as if said oil were sold.

"(4) The tax levied herein shall be paid monthly on the twenty-fifth day of each month on all oil produced during the month next preceding by the purchaser or the producer as the case may be, but in no event shall a producer be relieved of responsibility for the tax until same shall have been paid, and provided, in event the amount of the tax herein levied shall be withheld by a purchaser from payments due a producer and said purchaser fails to make payment of the tax to the State as provided herein the producer may bring legal action against such purchaser to recover the amount of tax so withheld, together with penalties and interest which may have accrued by failure to make payments and shall be entitled to reasonable attorney fees and court costs incurred by such legal action.

"(5) Provided, that unless such payment of tax on all oil produced during any month or fractional part thereof shall be made on or before the twenty-fifth of the month immediately following, such payment shall become delinquent and a penalty of ten per cent (10%) of the amount of the tax shall be added; such tax and penalty shall bear interest at the rate of six per cent (6%) per annum from date due until date paid.

"(6) The tax herein levied shall be borne ratably by all interested parties, including royalty interests, and producers and/or purchasers of oil are hereby authorized and required to withhold from any payment due interested parties, the proportionate tax due.

"(7) The taxes herein provided for, when paid shall be, and hereby are, allocated as follows, to wit:

"One-fourth ($\frac{1}{4}$) of said tax when and as received by the Comptroller shall be paid to the State Treasurer of Texas and be placed to the credit of the available School Fund, one-fourth ($\frac{1}{4}$) of said tax when and as received by the Comptroller shall be paid to the State Treasurer of Texas and be placed to the credit of the Department of Public Welfare Fund, and one-half ($\frac{1}{2}$) of said tax when and as received by the Comptroller of Public Accounts shall be paid to the State Treasurer of Texas and be placed to the credit of the State General Fund.

Article II

Section 1. There is hereby levied a severance tax of one-half cent ($\frac{1}{2}c$) upon each one thousand (1000) cubic feet of gas produced within this State. The tax shall be paid by each producer on the amount of gas produced and said tax shall be a liability of the producer of gas. Such producer shall keep an accurate record of all gas produced, making monthly reports under oath, as may be required by the Comptroller of Public Accounts.

The purchaser of gas shall pay the tax on all gas purchased and deduct tax so paid from payment due producer or other interest holder, making such payments so deducted to the Comptroller of Public Accounts by legal tender or cashier's check payable to the State Treasury.

Provided, that if gas produced is not sold during the month in which produced, then said producer shall pay the tax at the same rate and in the same manner as if said gas were sold.

The tax herein levied shall be paid monthly on the twenty-fifth day of each month on all gas produced during the month next preceding by the purchaser or the producer as the case may be, but in no event shall a producer be relieved of responsibility for the tax until same shall have been paid; and, provided, in event the amount of the tax herein levied shall be withheld by a purchaser from payments due a producer and said purchaser fails to make payments due a producer and said purchaser fails to make payment of the

tax to the State as provided herein, the producer may bring legal action against such purchaser to recover the amount of tax so withheld, together with penalties and interest which may have accrued by failure to make payments and shall be entitled to reasonable attorney fees and court costs incurred by such legal action.

Provided that the taxes herein levied when paid shall be and hereby are allocated as follows: one-fourth ($\frac{1}{4}$) of said tax when and as received by the Comptroller shall be paid to the State Treasurer of Texas and be placed to the credit of the Available School Fund; one-fourth ($\frac{1}{4}$) of said taxes when and as received by the Comptroller shall be paid to the State Treasurer of Texas to be placed to the credit of the Department of Public Welfare Fund, and one-half ($\frac{1}{2}$) of said taxes when and as received by the Comptroller shall be paid to the State Treasurer to be placed to the credit of the General Fund of the State.

Article III

Section 1. That Section 40A of Article 7047, Revised Civil Statutes, 1925, as amended by Acts of the Forty-second Legislature, 1931, Regular Session, page 355, Chapter 212, Section 1, as amended by House Bill No. 8, Chapter 495, Article IV, Section 6, Acts of the Third Called Session of the Forty-fourth Legislature, shall be amended so as to hereafter read as follows:

"40A. Sulphur Producers. Each person who owns, controls, manages, leases, or operates, any sulphur mine, or mines, wells or shafts, or who produces sulphur by any method, system, or manner within this State shall make quarterly on the first day of January, April, July and October of each year a report to the Comptroller sworn to by such person before an officer authorized to administer oaths in this State, or if such person be other than an individual, sworn to by its president, secretary, or other duly authorized officer, on such forms as the Comptroller shall prescribe, showing the total amount of sulphur produced within this State by said person during the quarter next preceding; and at the time of making said report

shall pay to the Treasurer of this State as occupation tax for the quarter ending on said date an amount equal to One Dollar and Twenty-three Cents (\$1.23) per long ton, or fraction thereof, of all sulphur produced by said person within the State of Texas during said quarter. Should any person subject to the occupation tax herein levied begin business after the beginning of a quarter, the amount of tax which such person or concern shall pay for the first quarter immediately succeeding the quarter in which the business was begun shall be ascertained by taking the total number of tons produced within the last quarter, dividing the same by the number of days such person or concern was engaged in the business during said preceding quarter and multiplying the quotient by ninety, and multiplying the product by One Dollar and Twenty-three Cents (\$1.23). Said tax shall be in lieu of the tax imposed by House Bill No. 251, Chapter 212, Acts of the Regular Session, of the Forty-second Legislature, but said tax shall be paid in the same manner, subject to the same penalties, and under the same conditions as provided in said Act, except that one-fourth ($\frac{1}{4}$) of said funds shall go into the Available School Fund and the remainder to the General Fund."

Article IV

Section 1. That Article 7060, Revised Civil Statutes of 1925, as amended by Chapter 34, Acts of the Fifth Called Session of the Forty-first Legislature, as amended by Article IV, Section 3, Chapter 495, Acts of the Third Called Session of the Forty-fourth Legislature, be, and the same is hereby amended so as to read as follows:

"Article 7060. Each individual, company, corporation or association, owning, operating, managing, or controlling any gas, electric light, electric power or water and light plant, located within any incorporated town or city in this State, and used for local sale and distribution in said town or city, and charging for such gas, electric lights, electric power or water, shall make quarterly, on the first days of January, April, July and October of each year,

a report to the Comptroller under oath of the individual or of the president, treasurer or superintendent of such company, corporation or association, showing the gross amount received from such business done in each such incorporated city or town within this State in the payment of charges for such gas, electric lights, electric power or water for the quarter next preceding. Said individual, company, corporation or association, at the time of making said report for any such incorporated town or city of two thousand five hundred (2,500) inhabitants and less than ten thousand (10,000) inhabitants, according to the last Federal census next preceding the filing of said report, shall pay to the Treasurer of this State an occupation tax for the quarter beginning on said date equal to nine hundred forty-five thousandths (.945) of one per cent of said gross receipts, as shown by said report; and for any incorporated town or city of ten thousand (10,000) inhabitants or more, according to the last Federal census next preceding the filing of said report, the said individual, company, corporation or association, at the time of making said report, shall pay to the Treasurer of this State an occupation tax for the quarter beginning on said date an amount equal to one and eighty-five hundredths (1.85) of one per cent of said gross receipts, as shown by said report. Nothing herein shall apply to any such gas, electric light, power, or water works, or water and light plant, within this State, owned and operated by any city or town, nor to any county or water improvement or conservation district. Nothing herein shall be construed to require payment of the tax on gross receipts herein levied more than once on the same commodity, and where the commodity is produced by one individual, company, corporation or association, and distributed by another, the tax shall be paid by the distributor alone, and the revenue derived from the taxes levied in this Article shall be credited one-fourth ($\frac{1}{4}$) to the Available School Fund and three-fourths ($\frac{3}{4}$) to the General Fund of this State.

"No city or other political subdivision of this State, by virtue of

its taxing power, police power or otherwise, shall impose an occupation tax, rental or charge of any sort for the privilege of doing business or for any other purpose, upon any person, corporation or association required to pay an occupation tax under this Article, provided that nothing in this Article shall be construed to prohibit the collection of ad valorem taxes as provided by law or any tax imposed by franchise, and provided further that this Article shall not affect any contract now in existence or hereafter made between a city and the holder of a franchise."

Article V

Section 1. Every person, firm, association of persons, or corporation, owning or operating any place of amusement which charges a price or a fee for admission including exhibits in theatres, motion picture theatres, and athletic events, not prohibited by law, shall file with the State Comptroller of Public Accounts a quarterly report on the twenty-fifth (25th) days of January, April, July and October for the quarter ending on the last day of the preceding month; said report shall show the gross amount received for admissions and said person, firm, association of persons, or corporation at the time of making such report shall pay to the Treasurer of this State a tax of one and one-half (1.5) per cent of the total gross receipts; provided that athletic events and entertainments furnished by educational, religious and charitable institutions shall be exempt from the payment of this tax; provided, further, that this tax shall be in addition to and not in lieu of any other taxes now levied by law.

Sec. 2. When the taxes derived from the proceeds of this section are received by the State Treasurer, he shall credit one-fourth ($\frac{1}{4}$) of said receipts to the Available School Fund and three-fourths ($\frac{3}{4}$) of said receipts to the General Fund of this State.

Article VI

Section 1. That Article 7070, Revised Civil Statutes of Texas, 1925, as amended by Acts of the Third Called Session of the Forty-fourth

Legislature, 1936, Article IV, Section 1, House Bill No. 8, be, and the same is, hereby amended so as to read as follows:

"Article 7070. (a) Each individual, company, corporation or association owning, operating, managing or controlling any telephone line or lines or any telephones within this State, and charging for the use of the same, shall make quarterly, on the first days of January, April, July and October of each year, a report to the Comptroller, under oath of the individual or of the president, treasurer or superintendent of such company, corporation or association, showing the gross amount received from all business within this State during the preceding quarter in the payment of charges for the use of its line or lines, telephone and telephones, and from the lease or use of any wires or equipment within this State during said quarter. Said individuals, companies, corporations, and associations, at the time of making said report, shall pay to the State Treasurer, and there is hereby levied upon said individuals, companies, corporations, and associations, an occupation tax for the quarter beginning on said date, equal to one and six-tenths (1.6) per cent of the gross receipts as shown by said report, received from doing business outside of incorporated cities and towns and within incorporated cities and towns of less than two thousand five hundred (2,500) inhabitants according to the last preceding Federal census; an occupation tax for the quarter beginning on said date, equal to one and nine-tenths (1.9) per cent of said gross receipts, as shown by said report, received from doing business within incorporated cities and towns of more than two thousand five hundred (2,500) inhabitants and not more than ten thousand (10,000) inhabitants according to the last preceding Federal census; an occupation tax for the quarter beginning on said date, equal to two and two-tenths (2.2) per cent of said gross receipts, as shown by said report, received from doing business within incorporated cities and towns of more than ten thousand (10,000) inhabitants according to

the last preceding Federal census. The revenue derived from taxes levied in this Article shall be credited one-fourth ($\frac{1}{4}$) to the Available School Fund and three-fourths ($\frac{3}{4}$) to the General Fund of this State.

"(b) No city or other political subdivision of this State, by virtue of its taxing power, police power or otherwise shall impose an occupation tax, rental or charge of any sort for the privilege of doing business or for any other purpose upon any person, corporation or association required to pay an occupation tax under this Article, provided that nothing in this Article shall be construed to prohibit the collection of any tax now imposed by a franchise, and provided further that this Article shall not affect any contracts now in existence or hereafter made between a city and the holder of a franchise."

Article VII

Section 1. If any person shall fail to pay the taxes due under the provisions of this Act when they are due, he shall be required to pay a penalty of ten per cent (10%) of the amount of tax due and if the tax is not paid by the tenth day of the month following the month in which said taxes were due, an additional penalty of ten per cent (10%) of the tax due shall be added by the Comptroller and collected, and for each additional thirty days such taxes shall remain unpaid an additional penalty of ten per cent (10%) shall be assessed and collected.

Prior to January 1, 1942, the Comptroller may waive this penalty if in his judgment failure to pay the taxes was due to some unusual circumstance and was in no sense an attempt on the part of the taxpayer to evade prompt payment, but after January 1, 1942, the Comptroller shall have no power to waive this penalty.

Article VIII

Section 1. Each article, section, subsection, sentence, clause, and phrase of this Act is hereby declared to be independently operative and if any article, section, subsection, sentence, clause or phrase of this Act shall be declared invalid by any court of competent jurisdiction, it

shall not affect or invalidate the remainder of this Act.

Sec. 2. Any person who shall willfully defraud or attempt to defraud the State out of any revenue derived from taxes herein authorized, and any person who shall fraudulently use or misappropriate any of the revenue derived from the taxes herein levied shall be guilty of a felony and upon conviction thereof shall be punished by imprisonment in the State Penitentiary for not less than two (2) years and not more than five (5) years.

Sec. 3. All laws and parts of laws in conflict with the provisions of this Act are hereby expressly repealed to the extent of such conflict.

Sec. 4. The fact that the General Fund of the State of Texas has a deficiency of more than twenty-five million (\$25,000,000) dollars at the present time and is ever increasing, and the revenue derived from the present taxes is not sufficient to pay the operating expenses of the State and retire the deficiency, together with the fact that the present revenue derived from taxes levied for the purpose of supporting our elementary and higher educational institution is inadequate to meet the present day requirements and our eleemosynary institutions are crowded and many insane persons unable to be admitted and are now confined in jails throughout the State awaiting admittance into one of our State hospitals because of lack of adequate housing facilities, creates an emergency and an imperative public necessity that the Constitutional Rule requiring that Bills be read on three several days in each House be, and the same is, hereby suspended and that this Act take effect and be in force from and after its passage, and it is so enacted.

A BILL

To Be Entitled

"An Act providing for the levying of a tax on each and every transaction as defined in this Act; providing for the collection of such tax and exempting certain transactions; making production of natural resources a transaction subject to the transaction tax; providing severance tax on natural resources in event transaction tax

cannot be lawfully levied; defining certain terms used in this Act; exempting certain transactions from the taxes herein levied; providing that in certain instances the tax shall be paid by affixing transaction tax stamps; fixing the venue of suits for collection of taxes and all suits brought by taxpayers against the Comptroller in a court of competent jurisdiction in Travis County, Texas; limiting the use of injunction against the payment of taxes; granting to the Comptroller authority to issue all necessary rules, regulations and definitions necessary to enforce the collection of taxes hereunder; authorizing the Comptroller to collect registration fees, to require the registration of persons subject to the tax; authorizing the Comptroller to employ necessary personnel to collect said taxes; authorizing the Comptroller to prescribe the forms and reports to be required of taxpayers; authorizing the Comptroller to examine books, records and accounts to ascertain if taxes are due the State; prescribing methods whereby the Comptroller may enforce the collection of taxes; authorizing the State Board of Control to design and have manufactured metal tokens and transaction tax stamps and prescribing the method whereby this shall be accomplished; authorizing the exchange of stamps or tokens under certain conditions; prescribing the duties of the State Treasurer in connection with this Act; appropriating funds to be used by the Comptroller in the enforcement of this Act; allocating one-fourth of the revenue to the Available School Fund and three-fourths to the State Department of Public Welfare Fund; making it the duty of the State Treasurer on the first day of each month, beginning September 1, 1941, to transfer certain funds to the Teacher Retirement Fund and setting aside remaining revenue to pay aid for dependent children, aid for the indigent blind, and old age assistance; prescribing penalties for the violation of this Act; providing that all revenue now being paid into the State Department of Public Welfare Fund which is

derived from the sale of cigarettes, intoxicating liquor, wine and beer shall hereafter be paid into the General Fund; and declaring an emergency."

Be It Enacted by the Legislature of the State of Texas:

Section 1. Wherever used in this Act:

(a) The word "value" wherever used in this Act shall mean:

(1) As applied to professional, business, personal, mechanical, industrial, commercial, engineering, scientific, publicity, or other services of whatsoever kind or nature, done or performed, "value" shall mean the amount charged, or contracted to be paid for such services, either in money and/or property, and as to any such property the value thereof shall be determined as provided in part (2) of subsection (a) of this section.

(2) As applied to tangible or intangible property or any right, title, interest, right of enjoyment or right of possession therein, "value" shall mean the actual fair market value thereof in the locality where any transaction with respect thereto takes place, if such property or right or interest therein has a market value; provided, that if such property or right or interest has no market value in the locality where the transaction with respect thereto takes place, then the intrinsic worth of such property, or any right or interest therein shall be the value thereof; provided, further, that if the parties to any transaction other than transactions involving services, shall have agreed upon the fair price or value of the property, or right or interest therein passing by such transaction, then such agreed price or value shall be the value of the property or right or interest therein so passing by such transaction, provided such agreed price or value shall represent the actual fair value of the property or right or interest therein, and such transaction is wholly bona fide, and the value passing by the transaction has not been so fixed and agreed upon for the purpose of evading the payment of any transaction tax under the provision of this Act.

(b) The word "person" as used herein shall mean any individual,

firm, co-partnership, corporation, association, joint adventure, agent, trustee, receiver, or any other group or combination acting as a unit, and the plural as well as the singular number, unless the intention to give a more limited meaning is clearly disclosed by the context.

(c) The word "transaction" as used herein shall mean and constitute any dealings of every kind whatsoever between two or more persons as defined in subsection (b) of this section, wherein or whereby professional, business, personal, mechanical, industrial, commercial, engineering, scientific, publicity or other services of whatsoever kind or nature are done or performed, or wherein and whereby any right, title, interest, right of enjoyment or right of possession in or to any tangible or intangible property of any description passes, or is, or may be fixed, determined, changed, exchanged, effected, modified, increased, diminished or affected.

(d) The word "Comptroller" wherever the same occurs in this Act, shall mean the Comptroller of Public Accounts of the State of Texas.

(e) The word "State" wherever the name is used in this Act, shall mean the State of Texas.

(f) Wherever in this Act the word "Taxpayer" is used it means the person as defined in subsection (b) of this Section who is liable for the payment of a transaction tax hereunder.

Sec. 2. There is hereby levied, and shall be collected, as herein provided a tax of one and six-tenths per cent (1.6%) on the amount of the actual value passing from one person to another, under or by virtue of, or in connection with each and every transaction as in this Act defined, taking place between two or more persons, and which tax shall be added to the value passing by the transaction, and be collected at the time such transaction is consummated; provided, that in all cases where the amount of the value which passes by the transaction is fixed by law, the tax of one and six-tenths per cent (1.6%) of such value, shall be collected on the last sale transaction only. The enumeration in this Act of transactions which are subject to the tax imposed by this Act, shall not be deemed to exclude

other taxable transactions not included in such enumeration. Said tax shall be known as a "Transaction Tax."

Sec. 3. The following transactions shall be exempt from the transaction tax herein levied:

(a) Salaries, wages, and professional fees paid or received by individuals.

(b) The first sale transaction by the producer of all horticultural, agricultural, livestock, poultry and dairy products.

(c) Transactions whereby single passenger fares not exceeding ten (10) cents are collected by street railway companies, or by motor bus carriers from customers for local transportation.

(d) Street sales of newspapers.

(e) Transactions consisting of sales, subscriptions and donations made to bona fide unemployment relief associations, bona fide charitable organizations, and the Salvation Army, operating exclusively for the benefit and welfare of the community where located, and each of which organizations dispenses to charity not less than eighty (80) per cent of its gross revenues.

(f) Bona fide church and religious organizations, bona fide unincorporated cemetery associations operated without profit for the exclusive benefit of its members, bona fide labor organizations, and bona fide business leagues, chambers of commerce and boards of trade operating exclusively for the benefit of the community where located, and each of such organizations and associations shall not be required to pay any tax on transactions under the provisions of this Act, provided such organization or association is not organized for profit and no part of such organization's or association's income inures to the benefit of any private individual.

(g) The mere act of cashing, honoring, or certifying a check or depositing money or funds in a bank authorized by law to transact a banking business, or depositing money or funds in escrow, when taken alone, or when merely incidental to a transaction as defined in subsection (c) of Section 1 of this Act, shall not be subject to a transaction tax under this Act.

(h) Transactions between the State of Texas and foreign countries and nations.

(i) Transactions between the State of Texas and other States of the United States of America.

(j) Transactions based upon interest and other earnings paid upon bonds secured as issued by the United States of America, to the extent, and to the extent only that the State of Texas is prohibited by the Constitution of the United States of America from taxing such transactions.

(k) Transactions based upon pensions and other emoluments received from the United States of America, to the extent and to the extent only that the State of Texas is prohibited by the Constitution of the United States of America from taxing such transactions.

(l) Transactions involving receipt of taxes, forfeitures, fines, costs, cost deposits and fees received by any officer or agent of the Government of the United States of America, to the extent, and to the extent only that the State of Texas is prohibited by the Constitution of the United States of America from taxing such transactions.

(m) Transactions based upon interstate commerce, to the extent, and to the extent only that the State of Texas is prohibited by the Constitution of the United States of America from taxing such transactions.

(n) All transactions similar to the exempted transactions set forth in subparagraphs (i), (j), (k), (l), and (m) of this section shall be exempt from said transaction tax, to the extent, and to the extent only that the State of Texas is prohibited by the Constitution of the United States of America from taxing such transactions.

(o) Transactions where the taxpayer is involved in the transaction as an officer, or agent collecting taxes, fees, forfeitures, fines, and costs for the State of Texas or for any political subdivision of the State of Texas.

(p) The occasional sale of tangible personal property by a person not engaged in such business shall not be subject to the transaction tax herein levied.

Sec. 4. The production of any natural resource of this State shall be subject to this transaction tax based on the value of such production, and such tax shall be fully effective as of the date of production or severance of such natural resource, the same as though a sale thereof had then been made, and such tax shall be paid by the person owning the natural resource produced or severed.

Sec. 5. If for any reason a final judgment shall be entered by any of the courts of the State of Texas, or of the United States of America, that the transaction tax provided for herein cannot be levied upon the production of an industry engaged in developing the natural resources of this State, then in that event a severance tax of one and six-tenths per cent (1.6%) of the value of such production shall be, and hereby is levied on said production in lieu of said transaction tax.

Sec. 6. All of the funds derived from the transaction tax herein levied shall be transmitted or paid to the Comptroller of Public Accounts of this State and shall be by him delivered to the State Treasurer, and one-fourth ($\frac{1}{4}$) of the net revenue from such tax shall be credited to the Available School Fund and three-fourths ($\frac{3}{4}$) of said funds shall be credited to the "State Department of Public Welfare Fund" and shall be used for the payment of old age assistance, aid to dependent children, aid to the indigent blind, and teacher retirement, together with the cost of administering such services, under such restrictions and limitations as provided by law and as provided in this Act.

Sec. 7. All taxes levied hereunder shall be paid as follows:

(a) On all transactions involving services as herein provided where the transaction tax is not paid by the affixing of transaction tax stamps as herein required, the taxes levied herein shall be added to the value of such service, and be collected by the person performing such services from the person receiving such services, at the time of the consummation of such transaction, and the person so performing such

services shall account for and pay such taxes to the Comptroller of Public Accounts of this State, as in this Act provided.

(b) On all transactions wherein or whereby any tangible or intangible property of any and every description, or any right, title, interest, estate, right of enjoyment, or right of possession therein passes, and the transaction tax levied by this Act is not paid by the affixing of transaction tax stamps as herein provided, the taxes herein levied on each and every transaction, shall, at the time of the consummation of such transaction be added to the value passing by such transaction and be collected by the person selling, delivering, transferring or conveying such property or right or interest therein, and such person so selling, delivering, transferring or conveying such property or right or interest therein shall account for and pay such taxes to the Comptroller of Public Accounts of this State, as in this Act provided.

(c) On all transactions wherein or whereby tangible or intangible property or any right, title, interest, estate, right of enjoyment or right of possession therein, shall be exchanged, and the transaction tax is not paid by the affixing of transaction tax stamps as herein provided, the taxes herein levied shall be accounted for, reported and paid to the Comptroller of Public Accounts of this State as herein required, by each party to such exchange of property, in accordance with and based upon the value of the property or right or interest therein of each such party which by said transaction passes to the other party or parties to said transaction.

(d) Any and every transaction shall be deemed to be consummated within the meaning of this Act at the time,

(1) The services involved in any transaction shall be actually charged against or could be demanded from the recipient of such services, provided that if such services are evidenced by a written contract such transaction shall be deemed consummated upon the execution of said contract.

(2) The tangible or intangible

property, or any right, title, interest, estate, right of enjoyment or right of possession therein which is the subject of the transaction is delivered by one party to the transaction, to the other, or upon the execution of any contract or instrument wherein or whereby such right, title, interest, estate, right of enjoyment or right of possession in and to any tangible or intangible property shall or may be fixed, determined, changed, exchanged, effected, modified, increased, diminished or affected.

(e) Any and all taxes herein levied and which are not required to be paid by the affixing of transaction tax stamps, may be paid by the person to such transaction receiving the tangible or intangible property or right or interest therein, to the person so selling, transferring, or conveying or delivering such property, with transaction tax tokens herein provided for, or lawful money of the United States of America, or such equivalent thereof as the person so selling, transferring, conveying or delivering such property may accept, provided however, the failure of said person so selling, transferring, conveying or delivering such property to collect any such taxes shall not excuse such person from accounting, reporting and paying all such taxes to the Comptroller of Public Accounts of this State as herein required.

(f) All persons as defined in this Act who are subject to the payment of any transaction tax other than such tax as is required to be paid by the affixing of stamps as herein provided, shall on or before the 15th day of each month pay to the State Comptroller of Public Accounts all taxes due for the month immediately preceding. Any person failing to pay the tax when due shall be required to pay in addition to such tax, a penalty of twenty-five (25) per cent of the amount of such tax, provided such tax and penalty be paid within ten (10) days from the time it became due, and if such tax be paid more than ten (10) days, and less than sixty (60) days, after the same becomes due in addition to the amount of such tax, a penalty of fifty (50) per cent of the amount of such tax shall be paid,

and if such tax be paid sixty (60) or more days after said tax became due, then in addition to the amount of said tax, a penalty of one hundred (100) per cent of such tax shall be paid. In any case where it becomes necessary for the State to file suit for the collection of taxes and/or penalties due under this Act, and unpaid, the State shall be entitled to recover from such taxpayer, double the amount of the tax due from such taxpayer, and in addition thereto, all court costs and attorney's fees incurred by the State in the prosecution of such suit.

Sec. 8. All suits for the collection of any tax due under the provisions of this Act, and all suits brought by any taxpayer against the Comptroller of Public Accounts of this State to restrain or enjoin such Comptroller from enforcing any of the provisions of this Act or the collection of the transaction tax levied herein, shall be instituted in a court of competent jurisdiction in Travis County, Texas, and venue of all such suits is hereby fixed exclusively in said Travis County, Texas.

Sec. 9. No restraining order or injunction shall be granted by any court against the Comptroller of Public Accounts of the State of Texas to restrain or enjoin such Comptroller from enforcing any provisions of this Act or the collection of any taxes levied by this Act, unless prior to the filing of any such suit the taxpayer or plaintiff shall have paid into the suspense account kept by the State Treasurer of this State, all transaction taxes then due by such taxpayer or plaintiff to the State, and the court shall not entertain any such suit unless the taxpayer or plaintiff or his attorney or agent, in the petition for restraining order or injunction, shall under oath allege the payment of all such taxes into such suspense account. In the event the injunction is finally dissolved or dismissed all taxes, fees and assessments, paid into the suspense account of the Treasurer under the provisions of this Act shall be paid to the State Department of Public Welfare Fund. If the final judgment maintains the right of applicant to a permanent injunction to prevent the collection of such taxes, the funds so deposited

shall be refunded by the Treasurer to said applicant. No person required to pay the taxes levied herein to the State may receive or take advantage of any benefit of any restraining order or injunction against the Comptroller of Public Accounts, to restrain the collection of the tax levied herein, except such person, firm, association, or corporation as may have applied for said injunction. All other persons not securing an injunction shall pay to the Comptroller of Public Accounts all taxes, fees, and assessments due by him under the provisions of this Act, and said restraining order or injunction shall, in no way, interfere with or impair the power of the Comptroller of Public Accounts of this State to collect and enforce the payment of the taxes, fees and penalties involved in any litigation with taxpayers not parties to the restraining order or injunction. Provided further, that no court shall entertain or hear any restraining order or injunction nor shall any restraining order or injunction be granted in behalf of any class or group unless and until each and every member of such class and/or group shall have been made a party to the cause of action, and shall have paid or deposited the taxes as hereinbefore provided.

Sec. 10. The Comptroller of Public Accounts of this State shall have authority to prescribe and publish uniform and equitable rules and regulations for determining the value passing by any transaction which may be used as the basis for the tax levied, and other rules and regulations for the enforcement of this Act and the collection of the taxes herein authorized, not inconsistent with this Act or with the Constitution of the United States or the Constitution of this State, and the taxpayer shall comply with such rules and regulations. And for the purpose of enabling the Comptroller to determine the tax liability of persons, firms, partnerships, companies, corporations, associations and others, the Comptroller is hereby authorized to require the registration of such persons, firms, partnerships, companies, corporations, associations, and others, as in his judgment is necessary for the enforcement of the provisions of this Act. A registration fee

of Two Dollars (\$2.00) shall be charged and collected by the Comptroller to cover, or partly cover, the cost of registration of persons, firms, associations or corporations required by the Comptroller to register under the provisions of this Act, and the revenue derived from this fee, or so much thereof as may be necessary, is hereby appropriated to the office of the Comptroller of Public Accounts to be used by him for the enforcement of the provision of Section 10 of this Act. Provided further that in the expenditure of said funds the Comptroller shall be subject to the limitations as to employment of personnel, salaries, and expenses as provided in Section 24 of this Act. Likewise the Comptroller shall have authority to require such reports and to demand and secure such information as may be necessary to secure the enforcement of this Act. The Comptroller shall have the right to examine the books, records, and accounts of any person, firm, partnership, company, corporation, or association in this State, if the Comptroller believes that such person, firm, partnership, company, corporation or association is subject to the tax herein levied. Any information secured by the Comptroller in the enforcement of this Act shall be regarded as confidential information and shall be used only for the purpose of enforcing the payment of taxes herein authorized.

Sec. 11. It shall be unlawful for any person employed by the State in the office of the Comptroller of Public Accounts to divulge or disclose to any person other than such Comptroller any information or facts which may have been disclosed to or obtained by the said Comptroller, or under his authority, through or by reason of any examination of any books, records, accounts, or documents of any taxpayer as provided by Section 10 of this Act, unless required to do so by order of a court or judge thereof. Any person violating any of the provisions of this section shall be guilty of a misdemeanor, and upon conviction thereof shall be fined One Hundred (\$100) Dollars and be confined in the county jail for thirty (30) days, and shall be summarily discharged as an

employee of this State, and shall not thereafter at any time be reemployed in any capacity in any department of the State Government.

Sec. 12. It shall be the duty of the Comptroller, within the limits of the provisions of this Act, to prescribe all forms and to maintain all records necessary for a proper enforcement of this Act, as well as to furnish such forms and information as may be requested by taxpayers when the furnishing of such information is necessary to enable them to comply promptly with the provisions of this Act. Provided, however, that the taxes herein levied shall be effective on the date this Act becomes effective as herein fixed and it is the responsibility of the taxpayer to make prompt payment of taxes as provided for in this Act. The failure of the Comptroller of Public Accounts to furnish forms and information shall be no defense against the failure of the taxpayer to pay taxes herein levied.

Sec. 13. The State Board of Control is hereby authorized to design and have manufactured metal tokens of such size and denominations and in such quantities as may be determined by said State Board of Control provided, however, the unit of token shall be of the value of sixteen one hundredths (.16) of one (1) cent, and the smallest token shall have a value of sixteen one hundredths (.16) of one (1) cent and where the value passing by a transaction is ten (10) cents or less, the tax shall be one (1) token of the denomination of sixteen one hundredths (.16) of one (1) cent and for each additional ten (10) cents of value or fraction thereof, the tax shall be an additional token.

Sec. 14. The State Board of Control is hereby authorized to design and have printed transaction tax stamps of such size and denominations, and in such quantities as may be determined by the said State Board of Control. The stamps shall be so manufactured as to render them easy to be securely attached to documents, provided that a different and separate serial number or combination letter and number may be assigned to and printed on the margin of each sheet of stamps, or any other method of identification

may be adopted as said Board may decide.

Sec. 15. The printing or manufacturing of said transaction tax stamps, and the manufacturing of said transaction tax tokens shall be awarded by competitive bids, and contract in each case shall be by said State Board of Control awarded to the person submitting the lowest and best bid that will afford the greatest and best protection to the State in the enforcement of the provisions of this Act. Upon the receipt by the State Board of Control of such stamps and tokens, the same shall be by said Board delivered to the State Treasurer of this State, and said State Treasurer shall sell and deliver the same to any and all persons upon payment of the face value thereof, and the State Treasurer shall be responsible for the custody and sale of such stamps and tokens and for the proceeds of all sales thereof under his official bond.

Sec. 16. (a) The State Board of Control is hereby authorized to change the design, size and denomination of all stamps and tokens as said Board of Control may deem necessary to effect the best enforcement of this Act, and the State Treasurer is hereby required to redeem at face value any unused stamps lawfully issued as well as any lawfully issued tokens, prior to any such change in the design or designs, which are in the possession of any bona fide owner thereof, by exchanging at face value stamps and/or tokens of the new design or designs. Whenever any change is made in the design, size or denominations of such stamps and/or tokens, every person holding stamps and/or tokens of the old design shall be required to send them to the State Treasurer for exchange at face value, for stamps and/or tokens of the new design. Any such exchange shall be made within sixty (60) days after the date of issue of the new design of stamps and/or tokens, and it shall be unlawful for any person to have in his possession any stamps and/or tokens of an old design after sixty (60) days from the date of issue of any new design, provided, that after sixty (60) days from the date of issue of any new design of stamps and/or tokens, the old design or designs shall be void. It

shall be the duty of the State Treasurer upon receipt of any new design or designs of stamps and/or tokens authorized by the State Board of Control to designate the date of issue of such new design or designs by the issuance of a proclamation, and the date of such proclamation shall be the date of issue of the new design or designs of stamps and/or tokens.

(b) Any person who shall have in his possession any transaction tax stamps or any transaction tax tokens of any old design after sixty (60) days from the date of issue of a new design of stamps, or a new design of tokens, and shall willfully pass or attempt to pass the same, shall be guilty of a felony, and upon conviction of a violation of this provision shall be punished by imprisonment in the penitentiary of the State for not less than two (2) years, nor more than five (5) years.

(c) Transaction tax stamps and transaction tax tokens may be exchanged only when proof satisfactory to the State Treasurer is furnished that any such stamps or tokens were properly purchased and paid for by the person offering to exchange the same; provided, further that stamps or tokens which are effaced or mutilated in any manner may be refused for acceptance in exchange by said State Treasurer.

(d) The State Treasurer shall keep a record of all stamps and tokens sold by him or under his direction, as well as all stamps or tokens exchanged by him and all refunds made on stamps or tokens purchased.

(e) Stamps in unbroken sheets of one hundred (100) stamps may be exchanged with the State Treasurer only, for stamps of a different denomination. The State Treasurer shall be authorized to make refunds on unused stamps in unbroken sheets of not less than one hundred (100) stamps each, to the person who purchased said stamps, provided, proof satisfactory to said State Treasurer is furnished that any stamps upon which a refund is requested, were properly purchased from said State Treasurer and paid for by the person requesting such refund. Such refund shall be made out of the State Department of Public Welfare Fund.

Sec. 17. All remittances of taxes imposed by this Act, except where

such tax is paid by affixing transaction tax stamps to instruments and documents as in this Act provided, shall be made to the Comptroller of Public Accounts of the State of Texas, by money, transaction tax tokens, or exchange, acceptable to said Comptroller, provided, that no remittance other than cash or such tokens shall discharge the liability for the tax or penalty attempted to be paid thereby, unless and until it has been paid in cash to said Comptroller.

Sec. 18. Whenever any transaction which is subject to a transaction tax within the meaning of this Act, shall be evidenced by any written instrument, document or memorandum, the person or persons executing such instrument, document or memorandum shall pay such tax by securely affixing to such instrument, document or memorandum at the time the same is executed a transaction tax stamp or stamps equal to the amount of such transaction tax, and cancelling such stamp or stamps. Any person who shall violate the provisions of this Section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than One Hundred (\$100) Dollars nor more than One Thousand (\$1,000) Dollars.

Sec. 19. No written instrument or document evidencing a transaction which is subject to a transaction tax under the provisions of this Act, shall be received, filed, recorded or registered by any public official of the State of Texas or any public official of any political subdivision of the State of Texas, unless such instrument or document has affixed thereto and cancelled, transaction tax stamps for the amount of such tax as required by this act.

Sec. 20. When any transaction is evidenced by more than one written instrument, document or memorandum, and one of such written instruments or documents is subject to filing, recordation or registration with any public official of this State or any political subdivision thereof, the transaction tax stamps required to be affixed to any such instrument, shall be so affixed to such instrument or document which is so subject to filing, recordation or registration, and the remaining instruments evidencing such transaction shall have

written thereon a statement that transaction tax stamps required by law have been affixed to another instrument, and naming such instrument.

Sec. 21. No written instrument, document or memorandum evidencing a transaction which is subject to a transaction tax under the provisions of this Act, shall be received or admitted in evidence in any suit, proceeding or hearing in any of the Courts of this State or in any proceeding or hearing before any Board, Department or Agency of the State Government of the State of Texas, unless such instrument, document or memorandum shall have affixed thereto and canceled, transaction tax stamps for the amount of tax as required by this Act, provided, that where any instrument evidencing any transaction subject to tax has affixed thereto transaction tax stamps sufficient to pay the tax on such transaction, this section shall not apply to the remainder of the instruments, documents or memorandums which shall be a part of such transaction.

This section shall not apply to any instrument, document or memorandum executed prior to the effective date of this Act.

Sec. 22. The provisions contained in Sections eighteen (18), nineteen (19), and twenty (20) of this Act shall not apply to instruments taken by or on behalf of the United States of America or any agency or instrumentality of the United States Government in carrying out a governmental purpose as expressed in any Act of the Congress of the United States of America.

Sec. 23. (a) Two Hundred Thousand Dollars (\$200,000), or so much thereof as may be necessary, is hereby appropriated out of the General Fund of the State to pay the cost of administering and collecting the taxes levied in this Act during the period beginning on the effective date of this Act and ending August 3, 1941, provided, that out of the first taxes collected under the provisions of this Act, the State Treasurer shall credit the General Fund of this State with Two Hundred Thousand Dollars (\$200,000) as reimbursement to cover this appropriation.

(b) Two Hundred Fifty Thousand and Dollars (\$250,000), or so much thereof as may be necessary, is hereby appropriated out of the State Department of Public Welfare Fund to cover the cost of administering and collecting the taxes levied under this Act during the period beginning September 1, 1941, and ending August 31, 1942, and a like amount of Two Hundred Fifty Thousand Dollars (\$250,000) for the same purpose is appropriated for the fiscal year beginning September 1, 1942, and ending August 31, 1943.

Sec. 24. The Comptroller of Public Accounts of the State is hereby authorized to set up in his office a department to be charged especially with the responsibility and duty of administering all of the tax provisions of this Act and the collection of the taxes herein levied. He is authorized to employ such personnel as may be necessary to perform the duties assigned to him and his office in the administration of this Act. The salaries of persons employed shall not exceed the salaries of other State employees performing similar services, nor shall the traveling expenses of such employees exceed the limit set by law for employees of other departments of the State Government.

Sec. 25. One-fourth ($\frac{1}{4}$) of all the revenue derived from this Act shall be allocated to Available School Fund and three-fourths ($\frac{3}{4}$) of said revenue shall be allocated to the State Department of Public Welfare Fund. Beginning September 1, 1941, the State Treasurer shall on the first day of each month transfer to the Teacher Retirement Fund Two Hundred Fifty Thousand Dollars (\$250,000) to be used for the purpose of paying the State's portion of teacher retirement as now provided by law and for retiring a portion of the deficit which has already accrued in this fund. Such payments of Two Hundred Fifty Thousand Dollars (\$250,000) shall be continued to be paid on the first day of each month by the State Treasurer until such time as the Teacher Retirement Fund is in balance, and thereafter the amount paid on the first day of each month shall be such amount as may be necessary to meet the State's ob-

ligations to this fund as such obligations accrue.

Section 26. All of the remaining revenue derived from the taxes herein levied and credited to the State Department of Public Welfare Fund, shall be used to pay the cost of providing aid for dependent children, aid for the indigent blind, and old age assistance, as now authorized or as may hereafter be authorized by law.

Sec. 27. It shall be unlawful for any person to fail or refuse to make any report, tax return or information return provided to be made by this Act, or required by any regulation promulgated by the Comptroller of Public Accounts of this State, or to make any false or fraudulent tax return, or false statement in any tax return or report, with intent to defraud this State or to evade the payment of the tax or any part thereof, imposed by this Act, or for the president, vice-president, secretary or treasurer of any corporation, association, or company, to make or permit to be made for any corporation, association or company any false tax returns, or any false statements in any tax or information return, or report required by this Act or the regulations promulgated by the Comptroller of Public Accounts of this State, with the intent to evade the payment of any tax imposed by this Act, or for any person to fail or refuse to permit the examination of any book, paper, account, record, or other data by the Comptroller of Public Accounts of this State, or his agent as required by this Act, or by an regulation promulgated by said Comptroller, for any person to use any artful device or deceptive practice to conceal any violation of this Act; or for any person to mislead or deceive the Comptroller of Public Accounts of this State, or his authorized representative in the enforcement of this Act; or for any person to fail or refuse to comply with the provisions of this Act; or for any person to fail to comply with the rules and regulations promulgated by the Comptroller of Public Accounts of this State, or violate the same. Any person violating any of the provisions of this Section shall be guilty of a misdemeanor, and upon conviction thereof shall be fined

not less than One Hundred Dollars (\$100) nor more than One Thousand Dollars (\$1000), or imprisoned in the county jail not exceeding sixty (60) days, or punished by both said fine and imprisonment, at the discretion of the Court.

In addition to the foregoing penalties and any other penalties fixed by this Act, any person who shall knowingly swear to or verify any false or fraudulent statement with the intent of defrauding the State of Texas or evading the payment of any tax imposed by this Act, shall be guilty of the offense of perjury, and upon conviction thereof, shall be punished in the manner required by law.

Sec. 28. If any Section, subsection, subdivision, paragraph, sentence, clause or word of this Act be held invalid or unconstitutional, the remaining portions of same shall nevertheless be valid; and it is declared that such remaining portions would have been enacted, notwithstanding such unconstitutional portion thereof.

Sec. 29. The transaction tax levied herein is not in lieu of, but is in addition to any and all taxes now levied by law within this State.

Sec. 30. All of the revenue derived from the sale of intoxicating liquor, wine and beer, which is now paid into the State Department of Public Welfare Fund, and all revenue which is now derived from the sale of cigarettes and paid into the State Department of Public Welfare Fund, shall hereafter be paid into the General Fund of this State, and all laws and parts of laws which are in conflict with this Section are hereby repealed, insofar as they conflict with this Section.

Section. 31. The fact that at this time the funds to pay old age assistance, teacher retirement, care for dependent children, and provide aid for the indigent blind are wholly inadequate to meet these obligations, creates an emergency and an imperative public necessity that the Constitutional Rule, requiring all bills be read on three several days in each House, be suspended and the same is hereby suspended and this Act shall take effect and be in force at and from the time of its passage.

SENATE RETIRES

At the conclusion of the address, the Senate, at 11:30 o'clock a. m., retired to its Chamber.

RESOLUTION SIGNED BY
THE SPEAKER

The Speaker signed in the presence of the House after giving due notice thereof and its captions had

been read the following enrolled resolution:

S. C. R. No. 1, Providing for the Appointment of Committee to Count Votes Cast for Governor and Lieutenant Governor.

ADJOURNMENT

On motion of Mr. McMurry the House at 11:40 o'clock a. m. adjourned until 10:00 o'clock a. m. next Monday.

In Memory of
Hon. Walter C. Woodward

Mr. Chambers offered the following resolution:

H. C. R. No. 13, In Memory of Honorable Walter C. Woodward.

Whereas, On the 17th day of December, 1940, the Great Architect of the Universe called from the Walks of Men, Senator Walter C. Woodward, of Coleman, Texas, at the age of fifty-eight years, and he met the final ordeal with the same undaunted spirit that he met the problems of life; and

Whereas, In his passing the State has lost a statesman, a great lawyer, and a patriotic citizen; he was loved and respected by his legion of friends; his good works will live on, and his memory be cherished by all who knew him; and

Whereas, His service to the State has been of the highest order; he was elected in 1907 as County Attorney of Coleman County and served until 1911. He was elected State Senator in 1925, he served in the Thirty-ninth, the Fortieth, the Forty-first, the Forty-second, and the Forty-third Sessions of the Legislature. Walter Woodward was President of the Texas State Bar Association from 1936 to 1937; and at the time of his death he was serving the State very ably as State Insurance Commissioner, having been appointed by the Honorable Governor W. Lee O'Daniel, February 10, 1939; and

Whereas, The Members of the Forty-seventh Legislature of the State of Texas, in recognition of his useful life, bow their heads in humble respect for the great loss of his outstanding service and devotion to his fellow man; and

Resolved, by the House of Representatives, That a copy of this resolution be spread on the memorial pages of the House Journal on this day to acknowledge the loss of his inspiring presence and splendid record in the field of public service and let this serve as an acknowledgment of his great usefulness to his State and to his people; and

Resolved, That the Chief Clerk of the House of Representatives send the family of the deceased a copy of this resolution under his seal, and when the House adjourns today, they do so in silent tribute to a man whose name shall live long in the consciousness of his people.

CHAMBERS,
HOWINGTON,
RAMPY,
BURKETT.

The resolution was read second time.

Signed—Leonard, Speaker; Allen, Allison, Alsup, Anderson, Avant, Bailey, Baker, Bean, Bell, Benton, Blankenship, Boone, Brawner,

Bray, Bridgers, Brown, Bruhl, Bullock, Bundy, Burnaman, Carlton, Carrington, Cato, Celaya, Clark, Cleveland, Coker, Colson, Connelly, Craig, Crossley, Crosthwait, Daniel, Davis, Deen, Dickson of Bexar, Dickson of Nolan, Donald, Dove, Duckett, Dwyer, Ellis, Eubank, Evans, Favors, Ferguson, Files, Fitzgerald, Fuchs, Gandy, Garland, Gilmer, Goodman, Halsey, Hanna, Hardeman, Hargis, Harris of Dallas, Harris of Hill, Hartzog, Heflin, Helpinstill, Henderson, Hileman, Hobbs, Howard, Hoyo, Huddleston, Huffman, Hughes, Humphrey, Hutchinson, Isaacks, Jones, Kelly, Kennedy, Kersey, Kinard, King, Klingeman, Knight, Lansberry, Lehman, Leyendecker, Little, Lock, Love, Lowry, Lucas, Lyle, McAlister, McCann, McDonald, McGlasson, McLellan, McNamara, McMurry, Manford, Manning, Markle, Martin, Matthews, Mills, Montgomery, Moore, Morgan, Morris, Morse, Murray, Nicholson, Pace, Parker, Pevehouse, Phillips, Price, Reed of Bowie, Reed of Dallas, Ridgeway, Roark, Roberts, Rhodes, Sallas, Senterfitt, Sharpe, Shell, Simpson, Skiles, Smith of Bastrop, Smith of Atascosa, Spacek, Spangler, Stanford, Stinson, Stubbs, Taylor, Thornton, Turner, Vale, Voigt, Walters, Wattner, Weatherford, White, Whitesides, Winfree.

On the motion of Mr. Phillips the names of all the Members of the House were added to the resolution as signers thereof.

The resolution was unanimously adopted by a rising vote.

In Memory of

Hon. Ditzler Jones

Mr. Spangler offered the following resolution:

H. S. R. No. 50, In Memory of Honorable Ditzler Jones.

Whereas, The House of Representatives has learned with regret of the death of Honorable Ditzler Jones on Monday, January 13, 1941; and

Whereas, Judge Jones was an honored and valuable citizen of the City of Uvalde and the State of Texas; and

Whereas, He was for many years an active and respected member of the Uvalde Bar and at the time of his death, President of the Bar Association of Uvalde County; and

Whereas, Judge Jones, inspired by ambition and wholesome interest in public welfare, contributed his lifetime toward making this a better place in which to live; now, therefore, be it

Resolved, by the House of Representatives of the State of Texas, that a copy of this resolution be spread upon a memorial page of the House Journal of today, in memory of, and as a tribute to a worthy citizen who has served his people, and who has crowned this service with both dignity and honor; and be it further

Resolved, in formally expressing our sorrow and sympathies, That under seal of the House of Representatives, the Chief Clerk forward a copy of this resolution to the family of our deceased friend, and that House adjournment today be in silent respect to the memory of Judge Jones.

SPANGLER,
GILMER,
SMITH of Atascosa,
HUFFMAN.

The resolution was read second time and was unanimously adopted.